

# Tampering & Aftermarket Defeat Devices

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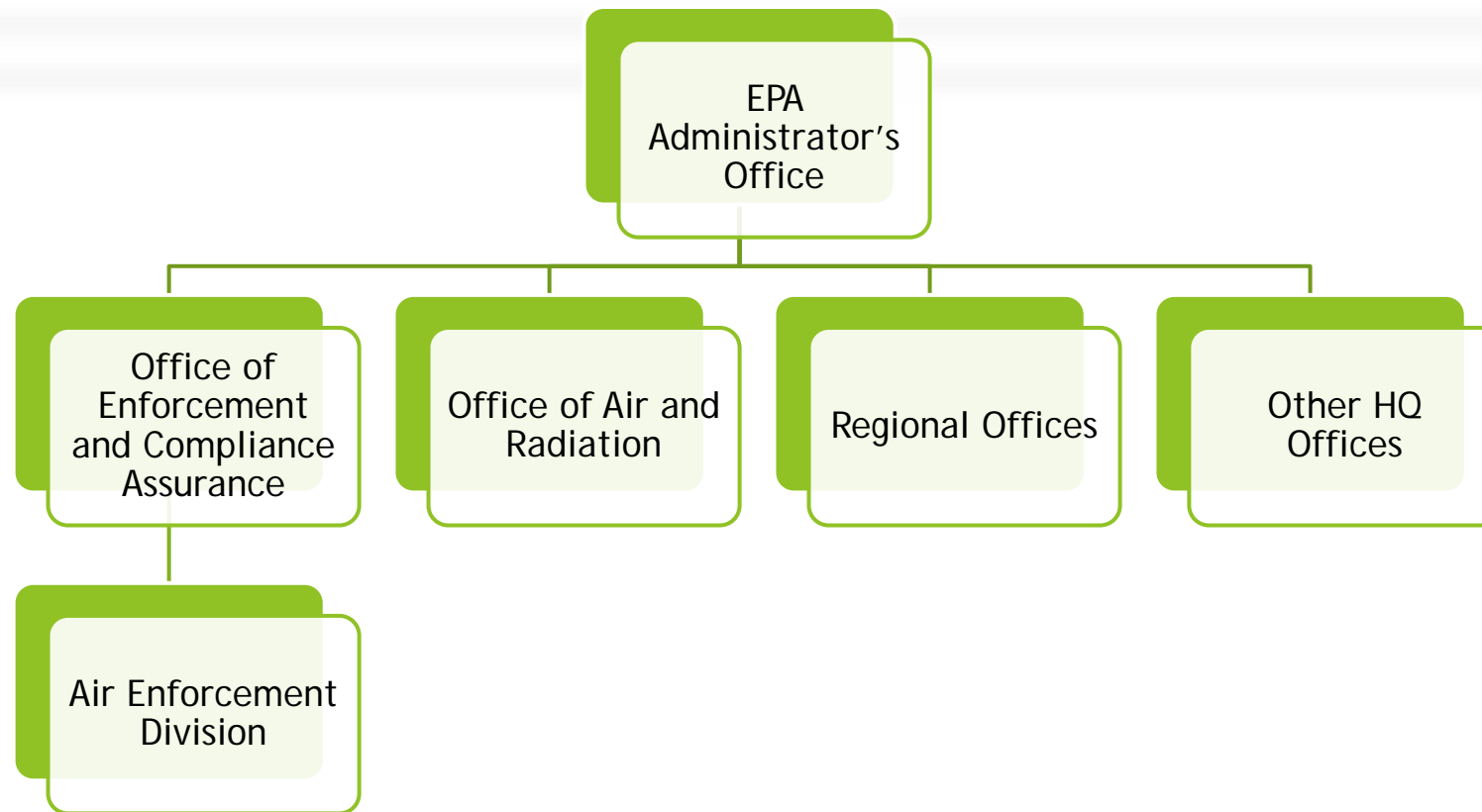
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# Outline

- ❖ Overview: EPA, Public Health, and the Clean Air Act
- ❖ Defeat Device and Tampering Prohibitions
- ❖ Defeat Device and Tampering Examples
- ❖ Tampering Enforcement Policy
- ❖ Civil and Criminal Penalties
- ❖ Warranty Implications



# Vehicle & Engine Enforcement





# Air Quality & Public Health

- ▶ Heavy-duty highway engine emit large amounts of nitrogen oxides and particulate matter, both of which contribute to serious public health problems in the United States.
- ▶ These problems include premature mortality, aggravation of respiratory and cardiovascular disease, aggravation of existing asthma, acute respiratory symptoms, chronic bronchitis, and decreased lung function.
- ▶ Numerous studies also link diesel exhaust to increased incidence of lung cancer.



# The Clean Air Act

- ▶ The Clean Air Act (CAA) was enacted by Congress in 1970, and amended in 1977 and 1990.
- ▶ Title II of the CAA – Mobile Source Provisions
  - ▶ On-highway (motor vehicles and motor vehicle engines) and nonroad (nonroad vehicles and nonroad engines) are regulated.
  - ▶ “Motor Vehicle” includes all cars, trucks, motorcycles
  - ▶ “Nonroad” includes construction equipment, lawn and garden, generators, marine, locomotive, recreational vehicles
- ▶ Today’s discussion is focused on aftermarket parts and service.



# CAA Title II Prohibitions: Defeat Devices

The following acts and the causing thereof are prohibited –

- ▶ For any person to manufacture or sell, or offer to sell, or install, a part or component for a motor vehicle, where
  - ▶ A principle effect of the part or component is to bypass, defeat, or render inoperative any emission control device, and
  - ▶ The person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.

CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B).



# CAA Title II Prohibitions: Tampering

The following acts and the causing thereof are prohibited –

- ▶ For anyone to remove or render inoperative an emission control component on a certified motor vehicle or engine prior to sale or delivery to ultimate purchaser, or
- ▶ For anyone to knowingly remove or render inoperative any emission control component on a certified motor vehicle or engine after sale and delivery to the ultimate purchaser.

CAA § 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A).



# Defeat Device and Tampering Examples

- ❖ Alterations to Fueling, Timing Strategy
- ❖ DPF Delete
- ❖ EGR Delete
- ❖ SCR Delete
- ❖ Alterations to OBD
- ❖ Software and Hardware





# Defeat Device and Tampering Examples

- ❖ Service adjustments to engines that do not conform to the original equipment manufacturer's specifications;
- ❖ Installation of parts not built to OEM specifications;
- ❖ If a service provider discovers tampering while performing work on an emission system, the service provider must return that system to OEM specifications.



# Memo 1A - Tampering Enforcement Policy

- ▶ Interim Tampering Enforcement Policy Memorandum 1A- (6/25/74)
- ▶ Memo 1A allows the sale and use of aftermarket parts when an individual or company has a “reasonable basis” to believe their actions do not increase emissions
- ▶ EPA issues no approvals under Memo 1A



# Memo 1A Requirements

In order to prevent and protect yourself from violations of the prohibitions on tampering and defeat devices, you should have in your records:

- ▶ Emission test results from tests conducted in accordance with EPA's federal test procedure (FTP) showing that similar vehicles meet the standards for the vehicles' useful lives *or*
- ▶ An EPA Aftermarket Parts Certificate
- ▶ Generally, the testing required for a CARB EO is the same as the testing required under Memo 1A because the test procedures are usually the same

*Vehicle must perform the same on- and off-cycle*



# Civil Penalties

- ▶ Max penalty for manufacturers or dealers is **\$45,268** per violative vehicle or engine.
- ▶ Max penalty for individuals is **\$4,527** per violative vehicle or engine.
- ▶ Max penalty per defeat device is **\$4,527**.
- ▶ Penalties are in addition to the cost of bringing the violative vehicle or engine back into compliance.
- ▶ Individuals, dealers, and manufacturers are also liable if they *cause* tampering or defeat device violations.



# Criminal Prohibitions

- ▶ It is a crime to knowingly falsify, tamper with, render inaccurate, or fail to install any “monitoring device or method” required under the CAA.
  - ▶ CAA § 113(c)(2)(C), 42 U.S.C. § 7413(c)(2)(C).
- ▶ Vehicle Onboard Diagnostics (OBD) are a “monitoring device or method” required by the CAA.



# Warranty Implications

- ▶ Consumers and service technicians should investigate warranty implications in advance.
- ▶ Tampering can void manufacturer warranties and insurance agreements if the tampering can be shown to have caused the failure.



# Other Issues

- ▶ In-Use GHG Compliance
- ▶ Heavy-Duty “Glider Vehicles” and “Glider Kits”



# Report Violations

Report violations online:

<https://www.epa.gov/enforcement/report-environmental-violations>



*Tampering & Aftermarket Defeat Devices, US EPA, June 2017*